

McCORRISTON MILLER MUKAI MacKINNON LLP

RANDALL K. SCHMITT #3752-0  
JAIME H. TOKIOKA #10819-0  
Five Waterfront Plaza, 4<sup>th</sup> Floor  
500 Ala Moana Boulevard  
Honolulu, Hawai‘i 96813  
Telephone: (808) 529-7300  
Facsimile: (808) 524-8293  
E-mail: [schmitt@m4law.com](mailto:schmitt@m4law.com); [jht@m4law.com](mailto:jht@m4law.com)

Attorneys for Plaintiffs  
HANS FRANKE and LOUISE FRANKE

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAI‘I

HANS FRANKE, an individual; and	)	CIVIL NO. 19-00007 DKW-RT
LOUISE FRANKE, an individual,	)	
	)	ORDER GRANTING IN PART AND
Plaintiffs,	)	DENYING IN PART PLAINTIFFS’
	)	MOTION TO STRIKE WENDELL F.
vs.	)	BROOKS, JR., ON BEHALF OF
	)	DEFENDANTS AND
JULIA A. YATES, an individual;	)	COUNTERCLAIM PLAINTIFFS
DENNIS YATES, an individual; CRC	)	JULIA A. YATES AND DENNIS
II, INC. FKA CLARK REALTY	)	YATES AS FIRST IDENTIFIED IN
CORPORATION, a Hawai‘i	)	THEIR FIRST SUPPLEMENTAL
Corporation; Does 1 through 50,	)	INITIAL DISCLOSURES [DKT. 86]
inclusive,	)	
	)	
Defendants.	)	Trial Date: March 29, 2021
	)	Judge: Honorable Derrick K. Watson
	)	

---

ORDER GRANTING IN PART AND DENYING IN PART  
PLAINTIFFS' MOTION TO STRIKE WENDELL F. BROOKS, JR.,  
ON BEHALF OF DEFENDANTS AND COUNTERCLAIM PLAINTIFFS  
JULIA A. YATES AND DENNIS YATES AS FIRST IDENTIFIED  
IN THEIR FIRST SUPPLEMENTAL INITIAL DISCLOSURES [DKT. 86]

On August 5, 2020, Plaintiffs HANS FRANKE and LOUISE FRANKE (collectively, "Plaintiffs") filed a Motion to Strike Wendell F. Brooks, Jr. on Behalf of Defendants and Counterclaim Plaintiffs Julia A. Yates and Dennis Yates as First Identified in Their First Supplemental Initial Disclosures [Dkt. 86] ("Motion") [Dkt. No. 92].

On August 26, 2020, Defendants JULIA A. YATES and DENNIS YATES (collectively, "Defendants Yates") filed their Memorandum in Opposition to [Dkt. 92] Plaintiffs' Motion to Strike Wendell F. Brooks, Jr. on Behalf of Defendants and Counterclaim Plaintiffs Julia A. Yates and Dennis Yates as First Identified in Their Supplemental Initial Disclosures [Dkt. 86], Filed on August 5, 2020 [Dkt. No. 95]. On August 27, 2020, Defendant CRC II, INC. FKA CLARK REALTY CORPORATION ("Defendant CRC II") filed its Statement of Position on [Dkt. 92] Plaintiffs' Motion to Strike Wendell F. Brooks, Jr., on Behalf of Defendants and Counterclaim Plaintiffs Julia A. Yates and Dennis Yates as First Identified in Their First Supplemental Initial Disclosures [Dkt. 86], Filed on August 5, 2020 [Dkt. No. 96]. On September 3, 2020, Plaintiffs filed their Reply Memorandum in Support of Motion to Strike Wendell F. Brooks, Jr., on Behalf of Defendants and

Counterclaim Plaintiffs Julia A. Yates and Dennis Yates as First Identified in Their First Supplemental Initial Disclosures [Dkt. 86], Filed on August 5, 2020 [Dkt No. 97].

These matters came on for a telephonic hearing on September 17, 2020 at 9:30 a.m. before the Honorable Rom A. Trader. Attorneys Randall K. Schmitt and Jaime H. Tokioka appeared by telephone on behalf of Plaintiffs. Attorneys Stephanie E.W. Thompson and Greg H. Takase appeared by telephone on behalf of Defendants Yates. Attorneys James Shin and Barron T. Oda appeared by telephone on behalf of Defendant CRC II.

Having considered the written submissions and the arguments of counsel, the Motion is GRANTED IN PART and DENIED IN PART as follows:

1. Motion is GRANTED with respect to Plaintiffs' request to strike Wendell F. Brooks, Jr. ("Mr. Brooks") from Defendants and Counter-Claim Plaintiffs Julia A. Yates and Dennis Yates' First Supplemental Initial Disclosures [Dkt. 60], filed on July 16, 2020 [Dkt. No. 86];
2. Motion is DENIED without prejudice with respect to Plaintiffs' request to limit the scope of Mr. Brooks' testimony; and
3. Motion is DENIED with respect to Plaintiffs' request to reopen Plaintiffs' expert disclosure deadline to rebut Mr. Brooks' expert opinions.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, September 24, 2020.



/s/ Rom A. Trader

Rom A. Trader  
United States Magistrate Judge

APPROVED AS TO FORM:

/s/ Greg H. Takase

STEPHANIE E.W. THOMPSON  
GREG H. TAKASE  
Attorneys for Defendants  
JULIA A. YATES and  
DENNIS YATES

/s/ James Shin

JAMES SHIN  
BARRON T. ODA  
Attorneys for Defendant  
CRC II, INC. FKA CLARK REALTY CORPORATION

---

Civ. No. 19-00007 DKW-RT; *Franke, et al. v. Yates, et al.*; Order Granting in Part and Denying in Part Plaintiffs' Motion to Strike Wendell F. Brooks, Jr. on Behalf of Defendants and Counterclaim Plaintiffs Julia A. Yates and Dennis Yates as First Identified in Their First Supplemental Initial Disclosures [Dkt. 86]